

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 374 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA. and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

RANTI DEVI CHAUDHARY

Appearance:

MR MANISH R BHATT for Petitioner
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE R.BALIA. and
MR.JUSTICE A.R.DAVE

Date of decision: 28/04/99

ORAL JUDGEMENT

The Income Tax Appellate Tribunal, Ahmedabad Bench 'A' at the instance of the Commissioner of Income-tax, Gujarat II, Ahmedabad, has referred the following questions for the opinion of the High Court:-

1. Whether on the facts and in the circumstances of the case, the appellate Tribunal has been right

in law in holding that section 60 of the Income-tax Act 1961 cannot be applied in the assessee's case and consequently the share of profit of Rs.34390/- from the firm of M/s.Ghesiram Shivsunder could not be included in computing total income of the assessee?

2. Whether, when there was no transfer of asset giving rise to the income within the meaning of the provisions of section 60 of the Income Tax Act, 1961 the Appellate Tribunal was justified in law and on facts in holding that section 60 had no application and the share of profit of Rs.34390/- could not be included in the income of the assessee?

2. It has been brought to our notice that the issue raised in this Reference is squarely covered by a decision of Division Bench of this Court in assessee's own case in the Commissioner of Income-tax Gujarat II, Ahmedabad Vs. Smt. Ratnjidevi Chaudhary, Ahmedabad in ITR No.33 of 1982 decided on 7.12.1993 and IT Ref. No. 207/82 decided on 12.10.94.

3. In the aforesaid circumstances, the questions are answered in the affirmative in favour of the assessee and against the revenue. The Reference accordingly stands disposed of with no order as to costs.

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